

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Texas, Marshall Division on the following

☐ Trademarks or ☒ Patents. (☒ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 2:10-cv-00589-TJW	DATE FILED 12/22/2010	U.S. DISTRICT COURT Eastern District of Texas, Marshall Division
PLAINTIFF KILTS RESOURCES, LLC		DEFENDANT CAMERON, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 4,135,547	1/23/1979	Baker International Corporation
2 4,202,368	5/13/1980	Baker CAC, Inc.
3 4,479,506	10/30/1984	Baker CAC, Inc.
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input checked="" type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES <i>ex rel.</i>)	
KILTS RESOURCES, LLC,)	
A Texas Corporation,)	CIVIL ACTION NO.
Realtor/Plaintiff,)	
v.)	
)	JURY TRIAL DEMANDED
CAMERON, INC.)	
)	
Defendant.)	
)	

PLAINTIFF'S ORIGINAL COMPLAINT FOR FALSE PATENT MARKING

1. Kilts Resources, LLC for its Complaint against Defendant Cameron, Inc., ("Cameron"), alleges, based on its own knowledge with respect to its own actions and based upon information and belief with respect to all other actions, as follows:

THE PARTIES

2. Kilts Resources, LLC (hereinafter "Plaintiff") is a Texas limited liability company.

3. Plaintiff, as to the false marking claim, represents the United States and the public, including Defendant's existing and future competitors.

4. On information and belief, Cameron, Inc. is a Delaware corporation, with its principal place of business at 1333 West Loop South, Suite 1700, Houston, TX 77027. Defendant's registered agent is The Company Corporation, 2711 Centerville Road, Suite 400, Wilmington, DE 19801.

5. Defendant regularly conducts and transacts business in Texas, throughout the

United States, and within the Eastern District of Texas, itself and/or through one or more subsidiaries, affiliates, business divisions, or business units.

JURISDICTION AND VENUE

6. The federal claim pleaded herein arises under 35 U.S.C. §292(b).

7. Subject matter jurisdiction for this federal claim is conferred upon this Court by 28 U.S.C. § 1338(a).

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1395(a), because: (i) Defendant's products that are the subject matter of this cause of action are advertised, marked, offered for sale, and/or sold in various retail stores on the Internet in this District; (ii) a substantial part of the events or omissions giving rise to the claim occurred in this District; and (iii) Defendant is subject to personal jurisdiction in this District, as described above.

9. Plaintiff brings this action under 35 U.S.C. § 292(b) which provides that any person may sue for civil monetary penalties for false patent marking.

BACKGROUND

10. This is an action for false patent marking under Title 35, Section 292, of the United States Code concerning the articles and/or methods related to the "Quick-Disconnect Bonnet and Line Blowout Preventer" products branded and distributed by Defendant.

11. The purpose of this lawsuit is to act in the public interest to enforce the policy underlying the false marking statute, 35 U.S.C. § 292.

12. Defendant has violated 35 U.S.C. § 292 by marking unpatented articles with the purpose of deceiving the public. More specifically, Defendant, with the purpose of deceiving the public, has caused articles and/or methods related to its "Quick-Disconnect Bonnet and Line Blowout Preventer" products to be marked with patent numbers that have expired.

13. Defendant produced articles and/or methods in connection with unpatented products that bear the word “patent” and/or any word or number importing that the product is patented.

14. The marking and false marking statutes exist to give the public notice of patent rights. Congress intended the public to rely on marking as a ready means of discerning the status of intellectual property embodied in an article of manufacture or design. Federal patent policy recognizes an important public interest in permitting full and free competition in the use of ideas that are, in reality, a part of the public domain.

15. False patent marking is a serious problem. Acts of false marking deter innovation and stifle competition in the marketplace. If an article that is within the public domain is falsely marked, potential competitors may be dissuaded from entering the same market. False marks may also deter scientific research when an inventor sees a mark and decides to forego continued research to avoid possible infringement. False marking can cause unnecessary investment in design around or costs incurred to analyze the validity or enforceability of a patent whose number has been marked upon a product with which a competitor would like to compete. Furthermore, false marking misleads the public into believing that a patentee controls the article in question (as well as like articles), externalizes the risk of error in the determination, placing it on the public rather than the manufacturer or seller of the article, and increases the cost to the public of ascertaining whether a patentee in fact controls the intellectual property embodied in an article. In each instance where it is represented that an article is patented, a member of the public desiring to participate in the market for the marked article must incur the cost of determining whether the involved patents are valid and enforceable. Failure to take on the costs of a reasonably competent search for information necessary to interpret each patent, investigation into

prior art and other information bearing on the quality of the patents, and analysis thereof can result in a finding of willful infringement, which may treble the damages an infringer would otherwise have to pay. False markings may also create a misleading impression that the falsely marked product is technologically superior to previously available ones, as articles bearing the term may be presumed to be novel, useful, and innovative.

16. The false marking statute explicitly permits *quit tam* actions. By permitting members of the public to sue on behalf of the government, Congress allowed individuals to help control false marking.

17. Kilts Resources, LLC, on its own behalf and on behalf of the United States, seeks an award of monetary damages of not more than \$500 for each of Defendant's violations of 35 U.S.C. § 292(a), one-half of which shall be paid to the United States pursuant to 35 U.S.C. §292(b).

18. Defendant did not have, and could not have had, a reasonable belief that its products were properly marked.

19. Defendant is a large, sophisticated company.

20. Defendant has, or regularly retains, legal counsel.

21. Defendant has experience applying for patents, obtaining patents, licensing patents and/or litigating in patent-related lawsuits.

22. Defendant knows that a patent expires and that an expired patent cannot protect any product.

23. Each false marking on the products identified in this Complaint is likely to, or at least has the potential to, discourage or deter persons and companies from commercializing competing products.

24. Defendant's false marking of its products has wrongfully quelled competition with respect to such products thereby causing harm to Plaintiff, the United States, and the public.

25. Defendant has wrongfully and illegally advertised patent monopolies that it does not possess and, as a result, has benefited by maintaining a substantial market share with respect to the products referenced in this Complaint.

26. Defendant marked (or caused to be marked) at least the products identified herein with the following expired patents: United States Patent No. 4,135,547 ("the '547 Patent"), United States Patent No. 4,202,368 ("the '368 Patent"), and United States Patent No. 4,479,506 ("the '506 Patent"). A copy of the '547, '368, and '506 Patents are attached as Exhibits 1-3, respectively.

27. The '547 Patent, titled "Quick Disengaging Valve Actuator," was filed on March 31, 1977 and issued on January 23, 1979. The '547 Patent expired on March 31, 1997.

28. The '368 Patent, titled "Safety Valve Or Blowout Preventer For Use In A Fluid Transmission Conduit," was filed on April 13, 1978 and issued on February 26, 1980. The '368 Patent expired on April 13, 1998.

29. The '506 Patent, titled "Conduit Blowout Preventer," was filed on August 9, 1982 and issued on October 30, 1984. The '506 Patent expired on August 9, 2002

30. Any product or method once covered by the claims of the '547, '368, and '506 Patents is no longer protected by the patent of the United States. When the patents expired, the formerly protected property entered the public domain. When a patent expires, monopoly rights in the patent terminate irrevocably and, therefore, a product marked with an expired patent is not "patented" by such expired patent.

31. Defendant knew that the '911 Patent expired, at the latest, on December 5, 2003.

32. Defendant knew that the '942 Patent expired, at the latest, on April 13, 1998.

33. Defendant knew that the '552 Patent expired, at the latest, on September 28, 1998.

34. Defendant knew that the '470 Patent expired, at the latest, on February 1, 2000.

35. Defendant knew that the '570 Patent expired, at the latest, on June 2, 2001.

36. Defendant knew that the '207 Patent expired, at the latest, on June 27, 2000.

37. Defendant knew that the '645 Patent expired, at the latest, on November 11, 1997.

38. Despite the fact that the claims of the patents are no longer afforded patent protection, Defendant marked (or caused to be marked) at least its articles and/or methods related to its "Quick-Disconnect Bonnet and Line Blowout Preventer" products with the '547, '368, and '506 Patents following their expiration dates.

39. Because all monopoly rights in the '547, '368, and '506 Patents have terminated, Defendant cannot have any reasonable belief that its "Quick-Disconnect Bonnet and Line Blowout Preventer" products are patented or covered by the '547, '368, and '506 Patents.

40. Defendant intended to deceive the public by marking (or causing to be marked) its articles and/or methods related to its "Quick-Disconnect Bonnet and Line Blowout Preventer" products with the '547, '368, and '506 Patents.

41. Defendant knew that its "Quick-Disconnect Bonnet and Line Blowout Preventer" products were not covered by the '547, '368, and '506 Patents when its articles and/or methods were marked.

42. Therefore, Defendant intentionally deceived the public by labeling the articles and/or methods related to its "Quick-Disconnect Bonnet and Line Blowout Preventer" products with the '547, '368, and '506 Patents.

COUNT I
(False Marking with Expired Patents)

43. Plaintiff incorporates by reference the foregoing paragraphs as if set forth herein.

44. Defendant falsely marked the articles and/or methods related to its “Quick-Disconnect Bonnet and Line Blowout Preventer” products the ‘547, ‘368, and ‘506 Patents that have expired. See Exhibits 4-5, attached hereto, which illustrate two separate web pages, marking, and/or advertising the ‘547, ‘368, and ‘506 Patents.

45. Defendant knew or reasonably should have known that marking the articles and/or methods related to its “Quick-Disconnect Bonnet and Line Blowout Preventer” products with the ‘547, ‘368, and ‘506 Patents was in violation of 35 U.S.C. § 292, which only authorizes marking on a “patented” article.

46. Defendant intended to deceive the public by marking its articles and/or methods related to its “Quick-Disconnect Bonnet and Line Blowout Preventer” products with the ‘547, ‘368, and ‘506 Patents.

DAMAGES

47. Kilts Resources, LLC, on its own behalf and on behalf of the United States, seeks an award of monetary damages of not more than \$500 for each of Defendant’s violations of 35 U.S.C. § 292(a), one-half of which shall be paid to the United States pursuant to 35 U.S.C. §292(b).

JURY DEMAND

48. Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

49. Plaintiff requests that the Court, pursuant to 35 U.S.C. § 292:

50. Enter judgment against Defendant and in favor of Plaintiff for the violations

alleged in this Complaint;

51. Order Defendant to pay a civil monetary fine of \$500 per false marking "offense," one-half of which shall be paid to the United States and one-half of which shall be paid to Plaintiff;

52. Enter a judgment and order requiring Defendant to pay Plaintiff's prejudgment and post-judgment interest on the damages awarded;

53. Order Defendant to pay Plaintiff's costs and attorney fees; and

54. Grant Plaintiff such other and further relief as it may deem just and equitable.

Dated: December 22, 2010

Respectfully submitted,

/s/ Winston O. Huff

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ATTORNEYS FOR PLAINTIFF
KILTS RESOURCES, LLC

CERTIFICATE OF FILING

I hereby certify that on December 22, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

Respectfully submitted,

By: /s/ Winston O. Huff

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CERTIFICATE OF SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 22nd day of December, 2010.

/s/ Winston O. Huff